

## SENATE BILL NO. 163

INTRODUCED BY L. GROSFIELD

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATUTES APPLICABLE TO THE MANAGEMENT OF CERTAIN ANIMAL SPECIES; RECLASSIFYING CERTAIN SPECIES TO INCREASE THE STATE'S ABILITY TO MAINTAIN OR REGAIN MANAGEMENT AUTHORITY RATHER THAN HAVING MANAGEMENT AUTHORITY EXERCISED BY THE FEDERAL GOVERNMENT; ~~EXEMPTING GRAY WOLF, GRIZZLY BEAR, AND LYNX FROM THE DEFINITION OF PREDATORY ANIMAL UNDER PROGRAMS ADMINISTERED BY THE DEPARTMENT OF LIVESTOCK, THE PURPOSES OF WHICH ARE TO EXTERMINATE OR DESTROY PREDATORY ANIMALS~~ REVISING THE DEFINITION OF "PREDATORY ANIMAL"; ELIMINATING THE AUTHORITY OF THE DEPARTMENT OF LIVESTOCK TO EXTERMINATE PREDATORY ANIMALS; ALLOWING A PERSON TO PROTECT LIVESTOCK BY KILLING OR ATTEMPTING TO KILL A GRIZZLY BEAR THAT IS IN THE ACT OF ATTACKING OR KILLING LIVESTOCK; ALLOWING THE AMENDMENT OF REGULATIONS FOR A SPECIES IN NEED OF MANAGEMENT WITHOUT LEGISLATIVE APPROVAL; PROVIDING FOR MANAGEMENT OF THE GRAY WOLF IF IT IS REMOVED FROM THE FEDERAL AND STATE LISTS OF THREATENED OR ENDANGERED WILDLIFE; AMENDING SECTIONS 81-7-101, 81-7-102, 81-7-103, 81-7-104, 87-3-127, 87-3-130, AND 87-5-105, MCA; REPEALING SECTION 7, CHAPTER 244, LAWS OF 1995; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 81-7-101, MCA, is amended to read:

~~"81-7-101. (Temporary) Definition. For the purpose of this part the term "wild animal" shall include coyote, lynx, and any other animal causing depredations upon livestock.~~

**81-7-101. (Effective on occurrence of contingency) Definition.** For the purpose of this part, the term "predatory animal" includes ~~gray wolf, coyote, RED FOX, lynx, and any other~~ INDIVIDUAL animal, except gray wolf, grizzly bear, and lynx, causing depredations upon livestock."

**SECTION 2.** SECTION 81-7-102, MCA, IS AMENDED TO READ:

~~"81-7-102. (Temporary) Department to supervise destruction of predatory animals -- cooperation with other agencies -- administration of moneys. (1) The department of livestock shall conduct the destruction, extermination, and control of wild animals predatory in nature and capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry, and the protection and safeguarding of livestock and poultry in this state against depredations from these animals. The department shall formulate the practical programs for accomplishing these objectives in this state and for carrying out the programs in an efficient and practical manner responsive to the need for control in each area of this state.~~

~~————(2) The department shall adopt rules applicable to predatory animal control which are necessary and proper for the systematic destruction of the wild animals by hunting, trapping, and poisoning operations and payments of bounties. The department shall make field, area, range, or other orders and instructions, including orders and instructions to hunter and trapper personnel and others, which are appropriate in the various areas at different seasons of the year, taking into consideration the habits, presence, migrations, or movements of the animals and their attacks on livestock and poultry, either singly or in packs or bands.~~

~~————(3) The department shall cooperate with authorized representatives of the federal government, including the biological survey and the fish and wildlife service, the department of fish, wildlife, and parks, boards of county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, and sportsmen, and corporations and individuals, in the systematic destruction of wild animals by hunting, trapping, and poisoning operations.~~

~~————(4) This section and 81-7-103 do not interfere with or impair the power and duties of the department of fish, wildlife, and parks in the control of predatory animals by the department of fish, wildlife, and parks as authorized by law, or the obligation of the department of fish, wildlife, and parks to expend its funds in cooperation with the department for predatory animal control as required by law. Funds of the department of fish, wildlife, and parks for the cooperative predatory animal control shall be administered and expended by the department of fish, wildlife, and parks.~~

**81-7-102. (Effective on occurrence of contingency) Department to supervise destruction of predatory animals -- cooperation with other agencies -- administration of money. (1) The department of livestock shall conduct the destruction, extermination, and control of predatory animals capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry, and the protection and**

1 safeguarding of livestock and poultry in this state against depredations from these animals. The  
2 department shall formulate the practical programs for accomplishing these objectives in this state and for  
3 carrying out the programs in an efficient and practical manner responsive to the need for control in each  
4 area of this state.

5 (2) The department shall adopt rules applicable to predatory animal control ~~which~~ that are  
6 necessary and proper for the systematic destruction of the predatory animals by hunting, trapping, and  
7 poisoning operations and payments of bounties. The department shall make field, area, range, or other  
8 orders and instructions, including orders and instructions to hunter and trapper personnel and others, ~~which~~  
9 that are appropriate in the various areas at different seasons of the year, taking into consideration the  
10 habits, presence, migrations, or movements of the animals and their attacks on livestock and poultry,  
11 either singly or in packs or bands.

12 (3) The department shall cooperate with authorized representatives of the federal government,  
13 including the biological survey and the fish and wildlife service, the department of fish, wildlife, and parks,  
14 boards of county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers,  
15 farmers, and sportsmen, and corporations and individuals, in the systematic destruction of predatory  
16 animals by hunting, trapping, and poisoning operations.

17 (4) ~~This section and Section 81-7-103 and this section~~ do not interfere with or impair the power  
18 and duties of the department of fish, wildlife, and parks in the control of predatory animals by the  
19 department of fish, wildlife, and parks as authorized by law; or the obligation of the department of fish,  
20 wildlife, and parks to expend its funds in cooperation with the department for predatory animal control as  
21 required by law. Funds of the department of fish, wildlife, and parks for the cooperative predatory animal  
22 control must be administered and expended by the department of fish, wildlife, and parks."

23

24 **SECTION 3. SECTION 81-7-103, MCA, IS AMENDED TO READ:**

25 **"81-7-103. Administration of funds by the department.** The department shall administer and  
26 expend for predatory animal ~~extermination and~~ control all money ~~which~~ that is made available to it,  
27 including the money allocated for this purpose under 81-7-104 and all money ~~which~~ that is made available  
28 to the department by appropriations made by the legislature for predatory animal control by the  
29 department. The department shall expend the funds for predatory animal control by all effective means  
30 responsive to the necessities of control in various areas of the state, including employment of hunters,

1 trappers, and other personnel, procurement of traps, poisons, equipment, and supplies, and payment of  
2 bounties in the discretion of the department at those times of the year it considers advisable."

3

4 **SECTION 4. SECTION 81-7-104, MCA, IS AMENDED TO READ:**

5 **~~"81-7-104. (Temporary) Predator control moneys -- use of proceeds.~~** (1) ~~The department of~~  
6 ~~livestock shall allocate a portion of the money from the levy under 15-24-921 for the purpose of protecting~~  
7 ~~livestock in the state against destruction, depredation, and injury by wild animals, whether the livestock~~  
8 ~~is on lands in private ownership, in the ownership of the state, or in the ownership of the United States,~~  
9 ~~including open ranges and all lands in or of the public domain. This protection may be by any means of~~  
10 ~~effective predatory animal destruction, extermination, and control, including systematic hunting and~~  
11 ~~trapping and payment of bounties.~~

12 ~~—— (2) Money shall be paid out only on claims duly and regularly presented to the department of~~  
13 ~~livestock and approved by the department in accordance with the law applicable either to claims for~~  
14 ~~bounties or for other expenditures necessary and proper for predatory animal control by means and~~  
15 ~~methods other than payment of bounties, as determined by the department. Money designated for predator~~  
16 ~~control shall be available for the payment of bounty claims and for expenditures for planned, seasonal, or~~  
17 ~~other campaigns directed or operated by the department in cooperation with other agencies for the~~  
18 ~~systematic destruction, extermination, and control of predatory wild animals, as determined by the~~  
19 ~~department and its advisory committee. No claims may be approved in excess of moneys available for such~~  
20 ~~purposes, and no warrants may be registered against the moneys.~~

21 **81-7-104. (Effective on occurrence of contingency) Predator control money -- use of proceeds.**

22 (1) The department of livestock shall allocate a portion of the money from the levy under 15-24-921 for  
23 the purpose of protecting livestock in the state against destruction, depredation, and injury by predatory  
24 animals, whether the livestock is on lands in private ownership, in the ownership of the state, or in the  
25 ownership of the United States, including open ranges and all lands in or of the public domain. This  
26 protection may be by any means of effective predatory animal destruction, ~~extermination,~~ and control,  
27 including systematic hunting and trapping and payment of bounties.

28 (2) Money ~~must~~ may be paid out only on claims duly and regularly presented to the department  
29 of livestock and approved by the department in accordance with the law applicable either to claims for  
30 bounties or for other expenditures necessary and proper for predatory animal control by means and

1 methods other than payment of bounties, as determined by the department. Money designated for predator  
2 control must be available for the payment of bounty claims and for expenditures for planned, seasonal,  
3 or other campaigns directed or operated by the department in cooperation with other agencies for the  
4 systematic destruction, ~~extermination~~, and control of predatory animals, as determined by the department  
5 and its advisory committee. Claims may not be approved in excess of money available for those purposes,  
6 and warrants may not be registered against the money."

7  
8 **Section 5.** Section 87-3-127, MCA, is amended to read:

9 **"87-3-127. Taking of stock-killing animals.** (1) Livestock owners, THEIR AGENTS, or employees of  
10 the department or ~~the a federal fish and wildlife service agency~~ agency may use dogs in pursuit of stock-killing  
11 black bears, stock-killing mountain lions, and stock-killing bobcats. Other means of taking stock-killing  
12 black bears, stock-killing mountain lions, and stock-killing bobcats may be used, ~~except the use of the~~  
13 deadfall.

14 (2) Traps used in capturing bears ~~shall~~ must be inspected twice each day with the inspections 12  
15 hours apart."

16  
17 **Section 6.** Section 87-3-130, MCA, is amended to read:

18 **"87-3-130. Taking of wildlife to protect persons or livestock.** (1) This chapter may not be  
19 construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by  
20 this chapter if the wildlife is ~~molesting, assaulting, attacking,~~ killing, or threatening to kill a person or  
21 livestock, except that, for purposes of protecting livestock, a person may not kill or attempt to kill a grizzly  
22 bear unless the grizzly bear is in the act of attacking or killing livestock. In addition, a person may kill or  
23 attempt to kill a wolf or mountain lion that is in the act of attacking or killing a domestic dog. A person  
24 who ~~se~~ takes wildlife protected by this chapter shall notify the department within 72 hours.

25 (2) A person may not intentionally provide supplemental feed to game animals in a manner that  
26 results in an artificial concentration of game animals that may potentially contribute to the transmission  
27 of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty  
28 provided in 87-1-102(1). This subsection does not apply to supplemental feeding activities conducted by  
29 the department for disease control purposes.

30 (3) As used in this section, "livestock" includes ostriches, rheas, and emus."

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2       **Section 7.** Section 87-5-105, MCA, is amended to read:

3       **"87-5-105. Regulations to manage nongame wildlife.** (1) On the basis of the determinations made  
4 pursuant to 87-5-104, the department shall issue management regulations. ~~Such~~ The regulations ~~shall~~  
5 must set forth species or subspecies of nongame wildlife ~~which that~~ the department ~~deems~~ considers to  
6 be in need of management pursuant to 87-5-104 through 87-5-106, giving their common and scientific  
7 names by species and subspecies. ~~The department may from time to time amend such regulations on the~~  
8 ~~approval of the legislature by adding or deleting therefrom species or subspecies of nongame wildlife.~~

9       (2) The department shall by ~~such regulations~~ regulation establish ~~proposed~~ limitations relating to  
10 taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment ~~as may be~~  
11 ~~deemed~~ considered necessary to manage ~~such~~ nongame wildlife that is designated in need of management.  
12 ~~The department may make such changes in the proposed regulations as are consistent with effective~~  
13 ~~management of nongame wildlife as designated by the legislature."~~

14

15       NEW SECTION. **Section 8. Process for delisting of gray wolf -- management following delisting.**

16 (1) If the United States fish and wildlife service removes the Northern Rocky Mountain or gray wolf from  
17 the United States' list of endangered or threatened wildlife, the department is authorized to remove the  
18 wolf from the state list of endangered species upon a determination by the department pursuant to this  
19 part that the wolf is no longer endangered.

20       (2) Following state delisting of the wolf, the department shall manage the wolf as a species in  
21 need of management until the department and the commission determine that the wolf no longer needs  
22 protection as a species in need of management and can be managed and protected as a game animal.  
23 Upon making that determination, the commission may declare the wolf a big game animal or a furbearer  
24 and may regulate the taking of a wolf as a big game animal or furbearer.

25       (3) FOLLOWING STATE DELISTING OF THE WOLF, THE DEPARTMENT, OR THE DEPARTMENT OF LIVESTOCK,

26 PURSUANT TO 81-7-102 AND 81-7-103, MAY CONTROL WOLVES FOR THE PROTECTION AND SAFEGUARDING OF

27 LIVESTOCK IF THE CONTROL ACTION IS CONSISTENT WITH A WOLF MANAGEMENT PLAN APPROVED BY BOTH THE

28 DEPARTMENT AND THE DEPARTMENT OF LIVESTOCK.

29

30       NEW SECTION. **Section 9. Repealer.** Section 7, Chapter 244, Laws of 1995, is repealed.

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2        NEW SECTION. **Section 10. Codification instruction.** [Section ~~5~~ 8] is intended to be codified as  
3 an integral part of Title 87, chapter 5, part 1, and the provisions of Title 87, chapter 5, part 1, apply to  
4 [section ~~5~~ 8].

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6        NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

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